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DECISION



21012
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

*Joseph
P.L.M.2*

FILE: B-203526

DATE: March 4, 1982

MATTER OF: Richard G. Shidler

DIGEST: Payment of a dislocation allowance is not authorized to an Army sergeant who was transferred to Fort Carson, Colorado, in 1977 and lived off post there. Although he may have been authorized to reside off post due to nonavailability of Government quarters, it is not clear he otherwise qualified for the allowance since records are not available to show whether assignment to Fort Carson was permanent or temporary and to show whether he received a dislocation allowance based on another change of station during the same fiscal year.

This action is in response to an appeal by former Staff Sergeant Richard G. Shidler, USA, of our Claims Group's disallowance of his claim for a dislocation allowance. His claim arises from his transfer to Fort Carson, Colorado, in 1977.

Although, Sergeant Shidler was authorized to live off post near Fort Carson, since the record does not show that his assignment to Fort Carson was a permanent change of station nor that he did not receive a dislocation allowance for some other transfer during the same fiscal year, the settlement is sustained.

Upon his discharge from the Army in July 1980, Sergeant Shidler applied for a dislocation allowance at the without dependents rate based on his transfer to Fort Carson, Colorado, in October 1977. He indicated that at that time he had no dependents. The Army Finance and Accounting Center disallowed the claim on December 3, 1980, on the basis that the approval of his request to live off base was due to Sergeant Shidler's desire rather than due to the nonavailability of Government quarters, and thus was not within the intent of Army regulations. Our Claims Group subsequently disallowed the claim on the same basis.

A member without dependents is entitled to a dislocation allowance whenever he is transferred to a permanent duty station where he is not assigned to Government quarters. See 37 U.S.C. § 407 (1976), as is implemented in Volume 1, Joint Travel Regulations (1 JTR), paragraph M9003. The purpose of the allowance is to partially reimburse a member for the expenses incurred in relocating his household upon a permanent change of station, 1 JTR paragraph M9000. Also, except under certain specified circumstances, the allowance may not be paid for more than one permanent change of station during any fiscal year. 1 JTR paragraph M9004-1.

Due to the time that passed before Sergeant Shidler filed his claim, not all the records pertaining to it are available. However, it appears that Sergeant Shidler was transferred to Fort Carson from the Medical Holding Detachment, Walter Reed Army Medical Center, Washington, D.C. Apparently, he had been transferred to Walter Reed as a patient from a duty station in Korea in September 1977. Sergeant Shidler has not been able to furnish a copy of his orders transferring him to Fort Carson nor has the Army furnished a copy of those orders. A travel voucher in the file indicates that he arrived at Fort Carson on October 22, 1977, and an order issued at Fort Carson dated October 26, 1977, shows that effective October 31, 1977, he was reassigned from a replacement detachment to an armored regiment at Fort Carson. He indicates that sometime thereafter he was returned to Korea.

Sergeant Shidler indicates that no quarters were available for him at Fort Carson so he should have received a dislocation allowance. He also indicated that he did not claim the allowance in 1977 because he was not then aware of his entitlement. Supporting his claim is a copy of an approval as of November 5, 1977, of his request to reside off post and receive basic allowance for quarters at the without dependents rate. This approval was signed by the Executive Officer to the Deputy Post Commander. Affixed to this approval is a statement signed by Sergeant Shidler in which he acknowledged that should space become available, he would be required to move back on post, and that he would make only temporary off post arrangements.

Sergeant Shidler argues that this approval to reside off post should be sufficient to show that quarters were not assigned to him and, thus, entitle him to a dislocation allowance. While the matter is not entirely clear, this statement does lend support to Sergeant Shidler's claim since under applicable regulations approval to reside off post and receive basic allowance for quarters generally is not to be granted if quarters are available for assignment. Army Regulations 210-16, paragraphs 4-10, 4-11 (March 26, 1976).

However, since we do not have Sergeant Shidler's orders assigning him to Fort Carson, we do not know whether he was transferred there on a permanent change of station or whether he was only temporarily assigned to duty there. In addition we do not know whether Sergeant Shidler has received a dislocation allowance for another change of station during the 1978 fiscal year. Since a temporary assignment or a prior payment of the dislocation allowance during the same year would prevent payment, the information available is not sufficient to support a determination of entitlement.

Accordingly, under the facts available to us, we may not authorize payment of the dislocation allowance Sergeant Shidler claims. Thus, the Claims Group's action disallowing the claim is sustained.

Shelton J. Fowler
for Comptroller General
of the United States